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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/758,207	01/12/2001	Bruno Loez	BET 00/1342	8565
466	7590	11/02/2004	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			DICUS, TAMRA	
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/758,207	LOEZ, BRUNO	
	Examiner	Art Unit	
	Tamra L. Dicus	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 19-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### DETAILED ACTION

Acknowledgement is made of the cancellation of claims 11-18. The claim objection is withdrawn.

#### *Claim Objections*

1. Claim 1 recites the limitation "the surface". There is insufficient antecedent basis for this limitation in the claim.

#### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 9, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 5,565,265 to Rubin et al.
4. Lesca teaches a nonwoven fabric (textile backing meeting claims 1 and 9) having a polyolefin film over it. See abstract, page 2, lines 1-13, and Examples 1 and 2. The film is comprised of a copolymer of ethylene with propylene between 3 and 87% (meeting the polyolefin weight % of 15 to 25 % as instant claim 4, including polypropylene homopolymer 5 to 8 parts as instant claim 6) and a diene may also be included within from 15-87% (PD matrix) (patented claim 1 and page 2, line 37), falling within Applicant's claimed range of 65-80 wt%,

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meeting instant claims 3 and 5. The fabric of Lesca is used in upholstery (col. 3, lines 15-18), equivalent to an article of instant claim 19.

5. While Lesca does not teach a Shore hardness value of 30-50 as in instant claim 2, such property is inherently present since the same materials are used. Lesca does not provide a printed pattern on the coating film. Rubin teaches a treated polyester fabric with printing patterns on a polymeric coating, coated on a fabric at col. 1, lines 17-20, lines 30-35, and lines 49-51, and col. 2, lines 15-31. Rubin explains various fabrics may be treated with the coating and then printed to provide various color designs via transfer printing paper or color printing stamped thereon. See also col. 4, lines 17-45. Rubin explains there is no limitation to the number of colors or variations to the print at col. 4, lines 40-45. Because the coated textile is printed and contains various colors, it is equivalent to containing discontinuous and varied printing patterns forming a decoration of different or 1 to 6 colors (new claims 23-26). It would have been obvious to one of ordinary skill in the art to modify the combination of Lesca and Rubin to include printed patterns on polymeric coatings since Rubin teaches doing so provides various aesthetic color prints and designs to coated fabric (col. 4, lines 17-45 of Rubin) as Rubin teaches its application for contact with human skin and upholstery (col. 3, lines 15-18 of Rubin).

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 5,565,265 to Rubin et al. and further in view of USPN 6,268,438 to Ellul et al.

7. Lesca in view of Pinkston is relied upon above. Lesca does not teach a very low metallocene in the PD matrix. Ellul provides a thermoplastic elastomeric composition that

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includes metallocene, producing a low density EPDM-type elastomer (thereby creating a low metallocene of very low density polyethylene as described on page 6 of Applicant's disclosure disclosing very low is a low metallocene). Further Ellul teaches adding such metallocene provides a lower cost, increased crystallinity (col. 2, lines 10-15 and col. 3, lines 14-30, lines 50-55, and col. 4, lines 8-10). Therefore, it would have been obvious to one of ordinary skill in the art to include a very low metallocene in order to lower costs as taught by Ellul as cited above. Ellul teaches ethylene from 10 to 40% by weight are excellent elastomers for use in dynamically vulcanized alloys at col. 3, lines 14-25, meeting the metallocene very low density polyethylene range of applicant from 10 to 30 weight %. Hence, it would have been obvious to one of ordinary skill in the art to include metallocene from 10 to 30 wt. % to the combination of Lesca and Rubin because Ellul teaches 10 to 40% by weight is conventional as cited above.

Lesca does not include paraffin oil of claim 6, thereby meeting the weight percent range between 0 to 15 parts.

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 5,565,265 to Rubin et al. and further in view of USPN 5,824,415 to Kanki et al.

Lesca in view of Rubin is relied upon above. Lesca does not teach a primer printed layer over the coating (claim 7). Lesca does not teach a varnish over the print according to instant claim 8. Kanki teaches a decorative material where a primer layer may be provided to improve the adhesion between layers. The primer layer may be formed of the same resin as used in the formation of the adhesive layer. For example, varnishes, such as polyester/isocyanate, polyether/isocyanate, acrylic resin, polyurethane, cellulose derivatives, and polyisocyanate, may

be used alone or as a mixture of two or more. Further in Example 1 teaching a pattern layer was gravure-printed using a two-component curable polyurethane ink embossed on a copolymer sheet. A chlorinated polypropylene resin liquid was then coated on the pattern layer to form a primer layer. See col. 6, lines 44-68. It would have been obvious to one of ordinary skill in the art to include a printed primer to the combination of Lesca and Rubin because Kanki teaches doing so improves the adhesion as cited above. It would have been obvious to one of ordinary skill in the art to include varnish because Kanki teaches it is conventional to include at col. 6, lines 44-68 to improve adhesion.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 5,565,265 to Rubin et al. and further in view of USPN 3,891,487 to Hoey.

10. Lesca in view of Pinkston is relied upon above. Lesca does not teach a foam backing. However, Hoey teaches a decorative laminate having a foam latex (foam rubber) under a textile fabric and a printed film on top. See col. 1, lines 5-10, lines 55-60, and col. 5, lines 7-30. It would have been obvious to modify the combination of Lesca and Rubin to further include a foamed rubber backing since Hoey teaches doing so provides lightweight properties and rigidity to the composite as cited above.

11. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 5,565,265 to Rubin et al. as applied above, and further in view of USPN 6,103,345 to Oshima et al.

12. Lesca in view of Pinkston is relied upon above. Lesca does not teach the nonwoven fabric used as a tablecloth. However, Oshima teaches a decorative sheet S3 has been applied to a

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tablecloth, the decorative sheet is at a low cost and excellent in design and decorativeness with sufficient practical strength. Oshima further teaches a tablecloth or the like, has a nonwoven fabric stuck on either one of the front and rear surfaces of the decorative sheet. See col. 5, lines 30-35. Therefore, it would have been obvious to one having ordinary skill in the art to include printed tablecloths to the combination of Lesca and Rubin since Oshima teaches it is a suitable use for a nonwoven fabric providing practical strength as taught by Oshima at col. 5, lines 30-35.

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0 554 896 to Lesca et al. in view of USPN 5,565,265 to Rubin et al. as applied above, and further in view of USPN 6,237,294 to Rygiel.

14. Lesca, as above, essentially teaches the claimed invention. Lesca does not teach the fabric including printed wall textiles. However, Rygeil teaches decorative three-dimensional panels having printed patterns explaining lower costs may be achieved by including wallpapers based upon woven fabrics, and nonwoven fabrics, as predecorated plywood products and wood paneling. See col. 1, lines 23-30. It would have been obvious to one of ordinary skill in the art to include a printed wall textile to the combination of Lesca and Rubin for the purpose of providing a lower cost decorated panel.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- USPN 5453318 to Giacobbe teaches polyolefins have a Shore Hardness value between 20-35.

### ***Response to Arguments***

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. Applicant argues Pinkston is to a printing blanket not used to teach printings on coated textiles, thus Rubin is used to teach this limitation. Ellul is still used because Ellul teaches a thermoplastic elastomeric composition of a metallocene catalyst in combination with a polyethylene (vulcanized rubber matrix) providing a low density polyethylene metallocene resin. As set forth above, as described in Applicant's disclosure on page 6 a low density metallocene resin is provided. Therefore, the Examiner interprets "very low" to include "low" as Ellul teaches at col. 3, line 33. Kanki is still used to teach employing primer layer in between layers to improve adhesion. Hoey is still used in the rejection to teach employing foams to under a textile fabric having printing on top, making an obvious combination to provide lightweight properties and rigidity. Oshima is still used in the rejection to teach using fabric as a tablecloth for providing practicality at col. 5, lines 30-35. Rygiel is still used to teach printed wall textiles at col. 1, lines 23-30 for providing lower cost decorated panels. The Examiner would like to note that commonly owned Application 09/758,207 is currently abandoned. Phillip DuBois was consulted on 10/28/04 during a telephone conversation that the clients have not had any intentions to revive the case to date.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamra L. Dicus whose telephone number is 571-272-1519. The examiner can normally be reached on Monday-Friday, 7:00-4:30 p.m., alternate Fridays.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tamra L. Dicus  
Examiner  
Art Unit 1774

10/28/04



RENA DYE  
SUPERVISORY PATENT EXAMINER 10/30/04  
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